Responses to Comments Received on Draft City Storm Water Standards Manual
Public Review Period: August 25, 2015 to September 24, 2015

ID	Commenter	Comment	Response
1	Project Design Consultants	City of San Diego Green Streets Manual is not currently available. Can this provision be deferred until such a time as the City's green streets manual has been developed and fully vetted through all City departments? I understand that this green streets guidance is currently in development and will not be ready for a long time after December of 2015. Based on recent experience, City plan checkers will not allow pervious pavements within street right-of-way.	Priority Development Project (PDP) exemption is an off ramp allowed by the MS4 Permit when the project is designed in accordance with the USEPA green street guidance and hence this exemption is allowed in the City Storm Water Standards. Guidance for a project to utilize this exemption is provided in Appendix J of the Part 1 of Storm Water Standards.
2	Project Design Consultants	Recommend allowing more flexibility in using the exemption for inverts less than the 100-year WSE as the guideline instead of lower than the 10-year WSE. In order to minimize disturbances within creeks for storm drain outfalls and preserve stream buffers, the criteria should be that the pipe invert should be lower than the 100-year water surface elevation, not the 10-year water surface elevation.	This requirement is consistent with the recommendations in the Final Hydromodification Management Plan. Flows are required to be managed for the geomorphically significant flow range (i.e. $Q_{critical}$ to Q_{10}) and allowing the outfall to discharge outside this range without additional erosion protection design might result in erosion of the banks. Exceptions may be allowed on a case by case basis at the discretion of the City Engineer.
3	Project Design Consultants	Clarify intent of phrase "in its entirety". I think the phrase “in its entirety” refers to the project area and the backbone storm drain system, not specifically referring to the level of design of the storm drain system for each phase. For example, if the backbone storm drain and backbone BMP are sized for the entire area, but the storm drain system and project have not been final engineered to the last detail, then the future permits that implement the design should be grandfathered.	For phased projects, applicants seeking prior lawful approval must include the design for the entire storm water drainage system, including pollutant control and hydromodification management, in the Water Quality Technical Report (WQTR) for all phase seeking prior lawful approval. Refer to the City’s Department Service Department Notice: 2013 MS4 Permit Storm Water Requirements – Applicability Guidelines, dated December 4, 2015. Applicants should consult with DSD staff for project specific determination.

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4	Project Design Consultants	Assume two separate projects are planned with a regional BMP strategy. If construction activity of downstream regional BMP has occurred within 180 days of BMP Manual effective date, but onsite construction of the upstream project can't start until after 180 days (but before 5 years), is the project grandfathered? (Can the construction activity of the BMP satisfy the construction activity requirement for the upstream project?)	Additional guidance for interpretation of the storm water requirement applicability timeline is added to Section 1.10 of the Part 1 of Storm Water Standards. The scenario presented does not qualify for grand fathering because Alternative Compliance was not available in the 2007 Permit. Alternative Compliance is a new requirement in the 2013 MS4 Permit and projects electing to use alternative compliance shall design BMPs to the performance standards required in the 2013 MS4 Permit. Refer to the City's Department Service Department Notice: 2013 MS4 Permit Storm Water Requirements – Applicability Guidelines, dated December 4, 2015.
5	Project Design Consultants	When will guidance in response to BIA's comment regarding design of HMP controls and pollutant control BMPs in series (formerly known as cistern + bioretention) be available? Manual states this topic is currently in development.	Guidance in response to BIA's comment has been added to Appendix B.5.3 of the Part 1 of Storm Water Standards.
6	Project Design Consultants	Suggest editing first sentence to the following in order to clarify that multiple plan sets for a project may build different BMPs and usually the first permit (for example, grading/shoring permit) shouldn't be held to showing BMPs that will be build later through a separate permit and plan set. "Permits <u>that construct pollutant control and/or flow duration control BMPs</u> will not be issued unless the structural post-construction BMP information...."	Statement in Section 8.2.1 in Part 1 is updated to say: "Permits <u>that construct structural BMPs</u> will not be issued unless the structural post-construction BMP information…."
7	Project Design Consultants	Suggest not requiring the stand-alone drainage report and stand-alone geotech report be included within the SWQMP. Reference should be sufficient. Or, only section of geotech report that is applicable to stormwater should be included in order to cut down on size of the SWQMPs.	In order to expedite the plan check process the reports identified in the template shall be included as Appendices to the SWQMP.
8	Project Design Consultants	Why does Area definition refer to Section 1.4.3? Is the intent to state that runon area is not included in the DCV calculation for streets? Not sure this is correct.	Additional clarification on run on area is added to Section 3.3.3

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9	Project Design Consultants	What is the definition of underground galleries in this case (page B-50)? Is this underground detention or underground retention (infiltration) or either?	It is clarified in Appendix B.6.2.1 in Part 1 that the pretreatment requirement is only applicable when the underground gallery is used for retention of storm water.
10	Project Design Consultants	Add a note that explains that continuous simulation modelers can use one of the 3 gages per Figure B.7-1 as an alternative to using the closest rain gage to the site. Because the spreadsheet sizing tool is based on the three gages, it follows that a continuous simulation should be able to utilize the same data set.	Project-specific continuous simulation models must use the most appropriate rainfall data set from the 19 rainfall record files provided on the Project Clean Water website. Determine the most appropriate data set based on the criteria presented in Section G.1.3.1. Do not substitute one of the three gages from Figure G.2-1 if it does not meet the criteria presented in Section G.1.3.1. All of the rainfall record files published on Project Clean Water are approved for use.
11	Project Design Consultants	Full-depth replacement of pavement is an exemption. If a project is conditioned to replace and re-pave a public alley or do other frontage improvements to replace damaged pavement, but there is no way to treat that water because existing drainage patterns have to be maintained, would that qualify as routine replacement?	Full-depth replacement of damaged pavement is considered routine replacement, if the sole purpose is to repair damaged pavement. The following statement is added to Table 1-2 to provide additional clarification: Work that creates impervious surface outside of the existing impervious footprint is not considered routine maintenance.
12	Coalition represented by Opper & Varco LLP	The Update is incomplete without Alternative Compliance Programs ("ACPs"), Water Quality Improvement Plans ("WQIPs"), Watershed Management Area Analyses ("WMAAs"), and Water Quality Equivalency calculations ("WQEs"), and any approval of the Update in its current state would be premature, as well as an arbitrary and capricious action	Alternative Compliance is an optional program that the City elected to participate in by including guidance for Phase 1 of an Alternative Compliance Program in the Storm Water Standards Manual Update. Implementation of Phase 1 of an Alternative Compliance Program is contingent upon the approval of the Watershed Management Area Analysis (WMAA) and Water Quality Equivalency (WQE) documents by the Regional Water Quality Control Board (RWQCB). The WQE was approved on December 17, 2015, however the WMAA has not been approved as of the dated of this writing. If the WMAA is not approved by the effective date of the Storm Water Standards Manual Update, individual projects must be designed to meet onsite compliance as required by the 2013 MS4 Permit using the guidelines provided in the Storm Water Standards Manual Update.

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13	Coalition represented by Opper & Varco LLP	The Update has numerous issues related to coarse sediment requirements, including a failure to provide adequate mitigation options. As currently worded, the coarse sediment requirements are in direct conflict with the Total Maximum Daily Load ("TMDL") requirements for the Los Peñasquitos Watershed	This topic was discussed during the stakeholder meeting on October 28, 2015. Based on the discussion during this meeting the following updates were made to the manual: Content in Section 6.2.4.2 in Part 1 is updated to provide a mitigation method and details about the method are included in Appendix H.4. Also the following statement is added to Section 6.2.4.2: Alternate mitigation measure to achieve no net impact may be developed and added to Appendix H as approved by the City Engineer. The applicant may be allowed to propose a mitigation measure not identified in this guidance document if it will achieve no net impact to the receiving water. Additional analysis may be requested prior to approval of the mitigation measure to substantiate the finding of no net impact to the receiving water. The following statement was added to Section 6.2 in Part 1 of the Storm Water Standards: PDPs complying with this requirement are not subject to the provisions of the Total Maximum Daily Load for Sediment in Los Peñasquitos Lagoon post construction. However, PDPs may be subject to the Total Maximum Daily Load requirements during construction.

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14	Coalition represented by Opper & Varco LLP	The Update inappropriately and unlawfully delegates unfettered discretion to the City Engineer. Specifically, it grants discretion to disallow proprietary BMPs without any guidance criteria for the decision	The following criteria is added to Storm Water Standards (Section 5.5.3; Section 5.5.4; Appendix F.1; Appendix B.6.2.2; Appendix E: Factsheet BF-3 and FT-5) , which state the criteria the City Engineer may consider while allowing proprietary BMPs: "In determining the acceptability of an alternative biofiltration BMP, the City Engineer should consider, as applicable, • the data submitted; • representativeness of the data submitted; • consistency of the BMP performance claims with pollutant control objectives; • certainty of the BMP performance claims; • for projects within the public right of way and/or public projects: maintenance requirements, cost of maintenance activities, relevant previous local experience with operation and maintenance of the BMP type, ability to continue to operate the system in event that the vending company is no longer operating as a business; and • other relevant factors. If a proposed BMP is not accepted by the City Engineer, a written explanation/reason will be provided to the applicant.
15	Coalition represented by Opper & Varco LLP	The Update recommends the use of unregistered antimicrobial BMPs in violation of State and Federal Regulations	FIFRA only regulates sellers and distributors of pesticide devices. The City is neither a seller nor a distributor of pesticide devices, even if one were to claim that a structural BMP is a pesticide device subject to labeling requirements. Ultimately, the City's production of the Manual does not affect the obligations of any person to comply with otherwise applicable law. The City is not the appropriate entity for determining when FIFRA (or its state analog, CFAC)) requirements apply to third parties. EPA and the California Department of Pesticide Regulation (DPR) are responsible for determining whether any pesticide or pesticidal device requires registration under state and federal laws regulating pesticides. Third parties that have questions about the applicability of FIFRA or CFAC requirements to their devices should contact U.S. EPA or California DPR respectively. In the event that EPA or DPR do determine a BMP is a pesticidal device requiring registration, the device should be registered.

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16	Coalition represented by Opper & Varco LLP	Acceptance of certification under the Washington State Technology Assessment Protocol – Ecology ("TAPE") program criteria or protocols developed under the New Jersey Center for Advanced Technology ("NJCAT") as sufficient compliance criteria for approval of proprietary BMPs	Clarification is added in Storm Water Standards Section 5.5.3; Section 5.5.4; Appendix F.1; and Appendix B.6.2.2 on what additional criteria, as applicable will be considered by the City Engineer for approval of proprietary BMPs. Also refer to response for **Comment 14**.
17	Torrent Resources and Coalition represented by Opper & Varco LLP	Explicit inclusion of drywells in the Update as an approved infiltration BMP in the same manner as other approved infiltration BMPs	Drywells are added as an approved infiltration BMP provided they register with US EPA in Section 5.5.1.2 of Part 1 of the Storm Water Standards AND Fact Sheet INF-4 is added to Appendix E that explains the potential role of dry wells in meeting infiltration requirements.
18	Tory Walker and Coalition represented by Opper & Varco LLP	The clarification of "Pre-Development runoff conditions" for sites that are redeveloped	The following clarifying text is added to Section 6.3.3: If compacted soils condition exists, however, infiltration characteristics (refer to Appendix G, Table G.1.4 for allowable adjustments) for that runoff condition may be assumed. AND The following clarifying note is added to Table G.1.4: Conductivity may also be reduced by 25% in the pre-development condition model for redevelopment areas that are currently concrete or asphalt but must be modeled according to their underlying soil characteristics.
19	Dr. Luis Parra and Coalition represented by Opper & Varco LLP	In his comment letter submitted to the Storm Water Division on September 24, 2015 ("Exhibit A"), Dr. Luis Parra, a San Diego State University Professor of Applied Hydrology, Applied Hydraulics, and Special Topics in Water Resources who has extensive experience assisting the public and private sectors in Southern California, provides a comprehendible and justified solution to address the issue of critical coarse sediment yield protection. The Coalition supports the work of Dr. Parra, and urges the Division to incorporate his comments into the Update for the benefit of developers, Copermittees and other governmental entities who will have to comply with the update.	Refer to response for **Comment 13**. Approach presented in Appendix H.4 was refined based on input provided by Dr. Parra.

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20	Department of Environmental Health (DEH): Vector Control Program	Suggests that future development projects implemented in accordance with the manual update, including projects involving all BMPs, storm water controls and bioretention structures require a vector management plan that incorporates measures to minimize the creation of mosquito breeding habitat. Any location that is capable of accumulating and holding at least ½ inch of water for more than 96 hours can support mosquito breeding and development.	Storm Water Standards requires development of a Vector Management Plan when the drawdown time is greater than 96 hours, consistent with the suggestion from DEH. Refer to Section 6.3.7 in Part 1 for this requirement.
21	Associated General Contractors (AGC) of America	Is the City of San Diego ultimately responsible for water quality compliance on public works?	The City is responsible for storm water quality compliance from City facilities and capital projects and the City enforces its codes and ordinances to maintain compliance with the San Diego Regional MS4 permit. For construction of City capital projects where a contractor performs work, the City is the Legally Responsible Party for CGP projects over 1 acre. However, for both CGP and non-CGP projects implemented by a contractor, the contractor is responsible to perform work in accordance with the project SWPPP or WPCP to maintain compliance with NPDES regulations. The City has the ability to issue a stop work order for non-compliant work and penalties can be assessed by the City to the contractor and any penalties leveraged against the City by regulators can be passed to the contractor in accordance with enforcement authority established in its codes, ordinances and by contract documents. The above clarification is added to Section 7.3 in Part 2 of the Storm Water Standards.

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22	AGC of America	Whose interpretation of "beginning of MS4 system" is being used? Where does this come from?	Regional Permit Definition "Municipal Separate Storm Sewer System (MS4) – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designated or used for collecting or conveying storm water; (iii) Which is not a combined sewer; (iv) Which is not part of the Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.26." City SW Ordinance "Municipal separate storm sewer system [MS4] means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by the City; (ii) designated or used for collecting or conveying storm water; (iii) which is not a combined sewer; and (iv) which is not part of the Publicly Owned Treatment Works as defined at 40 Code of Federal Regulations section 122.26." MS4 definition is added to the Glossary in Part 2 of the Storm Water Standards
23	AGC of America	If curb is beginning of MS4 system, why protect inlets?	Inlet protection is a minimum BMP requirement to control storm water and non-storm water discharges into inlets. Projects should not rely solely upon inlet protection and are required to implement a complementary set of source/erosion control, drainage control, and sediment control practices. Such as Stockpile protection, Tracking Controls, Dust control BMPs and Good Housekeeping BMPs, at the very least.
24	AGC of America	Will City give MS4 compliance direction in Right-of-Way work?	As part of this update to the Storm Water Standards Manual, the City has developed several templates for a Water Pollution Control Plan depending on the type of work. These will made available electronically and a hard copy of a blank template is included in the contract documents for all CIP projects. These templates provide **guidance** (as opposed to direction) to the contractors for the majority of work in the ROW.

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25	AGC of America	Design manual required Construction plans to include permanent BMP's. City should develop SWQMP and SWPPP in concert with each other	The City agrees that SWQMP and SWPPP should be developed in concert with each other. The City disagrees that both the documents should be combined. They should certainly reference each other, but their purposes and implementation are distinctly different.
26	AGC of America	This permit (Groundwater dewatering discharges) is no longer applicable and has been replaced by order R9-2015-0013	The City agrees that both Order No. R9-2008-0002 and Order No. R9-2007-0034 have been replaced by Order No. R9-2015-0013. The new order combines coverage for both of the previous permits and adopted by the Water Board on June 24, 2015 and became effective October 1, 2015. The table 3-1 in Part 2 has been updated to reflect the combination of the two previous permits into the current permit Order No. R9-2015-0013 NPDES No. CAG919003.
27	AGC of America	Project owners including the City of San Diego, as the legally responsible persons, need to provide the direction and ability (payment, right of way) to properly dechlorinate hydrostatic test discharges	Comment noted. Concerns related to feasibility and constraints should be raised / addressed on a project specific basis. The City understands that while some contractors are struggling to understand the requirements, many contractors are successfully using BMP practices and meeting the permit limitation for Hydrostatic Testing and Potable Water Discharges. Therefore, there is no need to provide further direction in the contract documents and in the updated Storm Water Standards Manual.
28	AGC of America	The City does not provide a SWPPP for Capital Improvement Projects. The City is the legally responsible person (LRP) for CIP, but does not provide contractors with the appropriate SWPPP, instead delegating that responsibility. Despite the project contract language, the City remains liable as the LRP, and should therefore retain the control of the stormwater protections, especially in a competitive bid environment.	Comment noted. The City uses a variety of approaches related to development and implementation of SWPPPs for Capital projects. See response to comment 24.

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29	AGC of America	Though the City maintains that contractor generated stormwater plans are not possible due to the impact on phasing, the BMP manual lists scheduling of construction activities as an important practice to avoid erosion and sediment runoff. AGC agrees phasing is a BMP that should be taken into consideration by the owner (LRP) as they concurrently develop the project plans and SWPPP, and not left as an afterthought for construction considerations only. Only through the contractors QSP and the Owners QSD should changes to the Phasing BMP be made to accommodate project schedule; the owners QSD, who is responsible for the SWPPP would have the final say on any modifications.	The City's policies prohibit the dictating of means and methods to the contractor in the contract document. It is the contractor's responsibility to develop a pollution prevention plan (SWPPP/WPCP) that is based on the various phases of construction activity. For SWPPPs, the contractor is required to hire a QSD to develop the SWPPP and a QSP to implement the BMPs in the SWPPP. For WPCPs, the contractor is required to have a QCP on staff to develop the WPCP (using the City's templates) and implement the BMPs. The SWPPP/WPCP are living documents which should be modified by the QCP/QSP as necessary. Limitations on revisions to the SWPPP are developed by the QSD and stated within the SWPPP. As the enforcing authority, the City may, require additional BMPs or modifications to BMPs, as necessary to comply with the Municipal Code and applicable permits.
30	AGC of America	Need clarification on what is considered storm drain system. If gutter is beginning of MS4, why do contractors need to be at least 50 feet from any "storm drain facilities"? Right of way projects are almost always within 50 feet of both gutters and storm drain inlets.	See response to Comment 22 for definition of the MS4. The 50 feet rule comes from the City's Clean Construction brochure as it relates to location of Port-a-pottys. It is based on CAQSA BMP Sheet WM-9,"… If site conditions allow, place portable facilities a minimum of 50 feet from drainage conveyances and traffic areas…" While the City understands the need to store construction materials and equipment in the ROW for most Capital projects, the contractor is responsible for managing them in such a way as to reduce the discharge of pollutants and prevent pollutants from reaching the inlets.
31	AGC of America	When saw cutting in gutter, is water or concrete slurry illegally in the storm drain system? Even if it is stopped and cleaned up before entering an inlet?	See response to Comment 22 for definition of the MS4. Where work involves work in curbs and on streets, source controls and other BMPs are required immediately downgradient of work to eliminate non-storm water discharges and control storm water discharges. Slurry waters from saw-cutting of concrete in the ROW is not considered a violation as long as all the following conditions are met: • Inlet protection in installed and check dams are in place to slow the flow; and • Slurry water is removed from the street and gutter promptly; and • Slurry water does not enter the inlet. This is clarified in Table 5-2 in Part 2 under solid waste management.

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32	AGC of America	If street sweeping water enters the gutter, is that a violation for non-stormwater discharge?	Street sweepers should be adjusted to eliminate or minimize the amount of runoff generated, especially while standing. Excess sweeper water is an unauthorized non-storm water discharge. This is added to Table 5-5 in Part 2 under tracking control.
33	AGC of America	What if the contractor does not have access to the street and/or gutter for cleaning due to parked cars or high-lining?	The City understands that circumstances may arise that would prevent cleaning of the gutter, such as parked cars, however, the contractor is required to demonstrate that they have cleaned as much as is feasible. The installation of high-lining in the gutter does not prevent clearing of debris and waste.
34	AGC of America	Is the hydrostatic testing method in storm water standards the method City prefers every time? If not, please specify in contract documents available methods, space, and resources to do so.	The City does not have a single preferred method. The preferred method(s) is any method in which the discharge meets the permit limitations. The City cannot specify methods and means in the contract documents.
35	AGC of America	What permit will T&SW be enforcing on discharges?	City would be enforcing Storm Water Ordinance found in San Diego Municipal Code sections 43.0301 through 43.0309. For construction sites, T&SW is enforcing non-storm water discharge and illicit connection violations in the Municipal Code From the Part 2 of Storm Water Standards Section 7.3 "The City has the legal authority to implement the requirements of the Municipal Permit (through the enforcement of its Codes and Ordinances) as stated in the "Certification of Adequate Legal Authority"